

1. DEFINITIONS. This document shall be referred to as the *“Permit”*. The named person to whom this Permit is issued and who signs this Permit to operate this concession – a high-quality outdoor holiday gift market – shall be referred to in this document as *“Permittee”* or *“Concessionaire”*. The City of New York and the New York City Department of Parks & Recreation shall be referred to as *“City”* and *“Parks,”* respectively. *“Commissioner”* shall mean the Commissioner of Parks. *“Comptroller”* shall mean the Comptroller of the City of New York. The area to which Permittee is assigned under this Permit shall be referred to as the *“Premises”*. The Premises is more fully described on the cover sheet hereinafter referred to as *“Cover Page,”* attached hereto and made a part hereof. The period between the effective date and the expiration date set forth on the Cover Page shall be referred to as the *“Term.”* *“Season,”* *“Operating Season,”* *“Setup Period,”* and *“Takedown Period”* shall have the meanings set forth on the Cover Page.

2. SCOPE OF PERMIT. Parks authorizes Permittee to operate the concession under this Permit daily each season through the Term, beginning each year no earlier than four (4) days after the Thanksgiving Day Parade and ending December 31, or such dates as approved by Parks, in accordance with the terms and conditions set forth in this Permit. The Concession is for a market for the sale of handcrafted items, art, unique gifts, finely crafted jewelry and related items of extremely high quality (the *“Market”*) and including the load-in, set-up, breakdown and load-out thereof. Subject to Park’s prior written approval the concession may also include holiday-related food and beverage items. All items offered for sale at the Premises shall be approved by Parks prior to operation of the concession under this Permit. It is expressly understood by Permittee that no land, building, space, equipment or property is leased or otherwise conveyed by this Permit. Permittee acknowledges that it will be using the Premises based solely on its own investigation, that no representations, warranties or statements have been made by the City concerning the fitness thereof, and that Permittee accepts it for its use in its present condition *“as is”*. Dates of load-in and load-out shall be approved by Parks. The provisions of this agreement, including but not limited to Permittee’s obligation to insure, indemnify and hold harmless, shall apply during the entire Term. .

This Permit shall only become effective upon registration with the City’s Comptroller Office, and Permittee’s receipt of a written Notice to Proceed from Parks. Permittee shall not commence the operation of the concession granted hereby until it has received the Notice to Proceed.

3. TRANSFER, ASSIGNMENT, OR SUBLICENSE; AND AUTHORIZED VENDORS.

(a) This Permit is issued solely to the Permittee on the basis of statements Permittee submitted in its Proposal. Permittee shall not sell, transfer, assign or sublicense this Permit or allow anyone else or any other entity to operate the concession under this Permit without Parks written consent, except that Permittee may authorize vendors approved in advance by Parks to sell handcrafted items, art, unique gifts, finely crafted jewelry and related items as well as food and beverages, such as holiday cookies or apple cider, at individual vending booths approved by Parks at the Premises. The number, location, configuration and list of participating vendors as well as the items sold and operating hours of each vendor are subject to Parks’ prior written approval. Vendors may only sell in the location approved by Parks. The exact location of vending equipment and units is subject to Parks’ prior written approval. All provisions of this Permit applicable to Permittee shall be equally applicable to the vendors authorized by it and approved by Parks. Permittee shall require all vendors authorized by it to agree in writing that they will comply with Parks’ directives and the provisions of this Permit applicable to Permittee and shall be responsible for assuring such compliance. If an individual vendor does not comply with this Permit, Parks may require Permittee to terminate that vendor’s operations.

(b) At least sixty (60) days before each year’s market commences, Permittee shall provide to Parks, for Parks’ approval, a list of all proposed vendors who will be participating in the sale of items at the Premises in that Season with a description of all items to be sold by each and their prices, and, if requested by Parks, physical samples of each vendor’s items. All items must be of high quality. Parks reserves the right at any time to reject any participating vendor it deems inappropriate. All approved vendors of food, beverage, merchandise or supplies of any kind must comply with all Federal, State and City Health Code Regulations. Any addition or changes to the list of proposed vendors shall be submitted to Parks for approval throughout the Operating Seasons.

(c) At the same time as it supplies Parks with the list of proposed vendors, Permittee shall also submit for Parks’ approval (i) an estimate of the approximate space to be used per participating vendor; (ii) the number of participating vendors; (iii) a site plan detailing the proposed location of each vendor; (iv) a description of the design and color of each booth to be used by each vendor; and (v) a statement of each vendor’s proposed participation fee payable to Permittee and (vi) load-in and load-out schedule. The exact location and configuration of the market is subject to Park’s written approval and individual vendors may only vend in the location allotted.

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4. **IDENTIFICATION AND ADDRESS.** Permittee shall provide to Parks proof of its identification and address by submitting acceptable documentation such as a government issued photo ID, current utility bills, bank statements or rental/lease agreements, or a certificate of incorporation. Documents listing a post office box or commercial receiving agency as the mailing address shall not meet the requirements of this Section 4. Permittee shall notify Parks immediately of any change in either Permittee’s address or phone number as set forth on the Cover Page.

5. **ASSUMPTION OF RISK.** In accepting this Permit, Permittee assumes all the risks involved in operating this concession. Permittee represents that Permittee has inspected the Premises and found it suitable for Permittee’s purpose and in operating condition. Subject to Parks prior written approval, any improvements and repairs deemed necessary shall be performed by Permittee at Permittee’s sole cost and expense with all required Permits. Permittee shall provide adequate security at all times for Permittee’s equipment, products and personnel. Permittee shall comply with all national safety guidelines and Federal, State and City laws and regulations related to the installation, operation and maintenance of the Premises.

6. **OPERATIONS.**

(a) Permittee, at its sole cost and expense, shall install, operate and manage the concession granted hereby as a high quality holiday gift market for the use and enjoyment of the general public and in such manner as the Commissioner of Parks (“Commissioner”) shall prescribe and as permitted by, and in compliance with, all laws, rules, regulations and orders of government agencies having jurisdiction. Permittee shall obtain and maintain all necessary approvals, permits and licenses for the lawful operation of the concession granted hereby. The Commissioner of Parks retains the right, throughout the Term of this Permit, to approve or disapprove any and all rates, fees and prices to be charged by Permittee or its participating vendors for any goods, rights or services provided pursuant to the operation of this Permit.

(b) The Premises shall be Columbus Circle Plaza, around the U.S.S. Maine national monument and between Central Park South and Central Park West, see Exhibit A, at such specific locations as Parks may approve in advance. No items of any kind may be adorned, posted, stored near or leaned against the U.S.S. Maine Monument. The vending booths shall not block park entrances or subway station signage or entrances and shall not interfere with pedestrian traffic.

(c) Permittee and its participating vendors may only operate at the Premises during each Season when Central Park is open. All hours of operation, of the holiday gift market, including load in and load out of equipment and/or merchandises during the Operating Seasons, are subject to Parks’ prior written approval. At its sole discretion, but based upon written request from Permittee, Parks may allow changes to Permittee’s approved operating hours/schedule. If the request is granted by the Commissioner, Permittee will continue to be responsible for all other obligations under this Permit, including the payment of all permit fees.

(d) Each individual vending booth and any equipment attached to such booth shall be of a design and color approved by Parks. In addition, Permittee shall repair or replace said equipment if deemed necessary by Parks. All umbrellas and awnings must be approved by Parks.

(e) Permittee and all participating vendors shall purchase, supply or otherwise obtain use of all equipment, fixed and non-fixed, necessary for the successful operation of the concession granted hereby, including but not limited to vending booths, tables and chairs. All vending booths must be kept in clean and good condition. Parks reserves the right to require replacement of vending booths that are in poor condition.

(f) Permittee may sell merchandise at the Premises; however, Permittee recognizes that the City is the trademark owner of various marks and has licensed the use of those trademarks for use on certain designated merchandise. If the Permittee wants to sell merchandise that uses the City’s trademarks, Permittee will be required to purchase merchandise from authorized licensees of the City of New York. Parks will not permit the sale of merchandise promoting musicians, entertainers, sports figures, cartoon characters, or commercial products. All prices and merchandise to be sold are subject to Parks’ prior written approval. The knowing sale of counterfeit or unlicensed merchandise at the concession will result in the immediate termination of this Permit and seizure of the Security Deposit.

(g) (i) Any business or trade name which Permittee proposes to use in identifying the Premises or any part of the Premises shall be subject to the prior written approval of the Commissioner, provided, however, that the Commissioner hereby approves the use of the trade name “Columbus Circle Holiday Market”. Permittee represents and warrants that Permittee has all the right, title and interest in the approved trade name above, or has acquired or properly licensed such right, title and interest,

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and that to the extent Permittee shall cease to possess such right, title, or interest, it shall immediately notify Parks and cease to use such trade name in connection with the operation of this Permit

(ii) All intellectual property rights in the Premises, Central Park name, and any other names, trademarks, service marks, copyrights, patents, trade names, service names, logos, domain names, identifiers, images and other intellectual property that identify Parks are the property of the City ("City IP"). Licensee may use the name "Central Park" in connection with its operations under this Permit only to identify the location of the Premises, and any other uses of "Central Park" or any other City IP may be only pursuant to a separate written agreement between the City and Permittee. Parks may require that the City own the portion of any new name selected by Permittee for use at the Premises that indicates Parks property or uses a preexisting facility name. The City will not own any portion of a new name that consists of the name, portrait or signature of a living or deceased individual or an identifier that is not otherwise associated with Parks' property.

(h) (i) Permittee may establish an advertising and promotion program, subject to Parks prior written approval. Permittee shall have the right to print or to arrange for the printing of programs or brochures containing any advertising matter except advertising matter which contains tobacco, non-tobacco smoking product, electronic cigarette or alcoholic beverage advertising, which is false or misleading, which promotes unlawful or illegal goods, services or activities, or which is otherwise unlawful, including but not limited to advertising that constitutes the public display of offensive sexual material in violation of Penal Law Section 245.11. Permittee may release news items to the media as it sees fit. If the Commissioner in his discretion, however, finds any advertising or other releases to be unacceptable, then Permittee shall cease or alter such advertisements or releases as directed by the Commissioner. The Commissioner shall have prior approval as to design and distribution of all advertising and promotional materials.

(ii) All advertising by third parties holding events at the Premises and/or participating vendors must be approved in advance in writing by Parks. Any failure to submit such advertising to Parks for pre-approval at least fourteen (14) days in advance of such event may result in the immediate termination of the Permit.

(i) Permittee and its participating vendors shall provide the number of personnel deemed necessary by Parks having the requisite skills together with the personal and consumable equipment deemed necessary by Parks to

install, operate, manage, and maintain the concession for the use and enjoyment of the general public.

(j) Permittee shall employ a Market Manager(s) to oversee all operations at the Premises. The Manager(s) must be on site during all hours of operation and must be available by phone or pager 24 hours a day during each Season. A copy of the Parks' Permit must be present with the Market Manager whenever the holiday gift market at the Premises is in operation.

(k) Permittee must have a sufficient number of staff available at the Premises during regular operating hours to ensure proper operation of the concession granted hereby. Parks reserves the right to require that all staff wear uniforms that have been approved in writing by Parks. At its option, Parks may charge Permittee for overtime costs associated with Parks staff that is asked to monitor the condition at the Premises. This charge shall not exceed Three Thousand Dollars (\$3,000) per each Operating Season.

(l) Permittee and participating vendors are prohibited from selling any beverages in glass bottles. All beverages shall be in non-glass, shatter-proof containers. The use of polystyrene packaging or food containers is prohibited.

(m) Permittee shall comply with all national safety guidelines and Federal, State, and City laws, rules and regulations related to the installation, operation and management of the Premises. Permittee and all participating vendors shall cooperate with Parks during special events or otherwise unanticipated events.

(n) Permittee shall immediately, or within twenty-four (24) hours of occurrence or notice thereof, notify Parks of major accidents occurring on the Premises as well as any unusual conditions that may develop in the course of the operation of this Permit, including without limitation fire, flood, casualty or substantial damage of any character. Permittee shall promptly notify Parks in writing of any claim for injury, death, property damage or theft, which shall be asserted against Permittee in connection with operations pursuant to this Permit. Permittee shall also designate a person to handle all such claims, including all insured claims for loss or damage in connection with operations pursuant to this Permit, and Permittee shall notify Parks in writing of such person's name, address and telephone number.

(o) The Earned Safe and Sick Time Act, also known as the

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Paid Sick Leave Law (“PSLL”), requires covered employees who annually perform more than eighty (80) hours of work in New York City to be provided with paid sick time. Concessionaires of the City of New York [or of other governmental entities] may be required to provide sick time pursuant to the PSLL. **Exhibit B**, the Earned Safe and Sick Time Act Concession Agreement Rider, is included in this Permit and incorporates the PSLL as a material term of the Permit.

- (p) Permittee shall be responsible for providing safe lighting throughout the Permitted Premises
- (q) Music & Sound Levels: Licensee will be required to comply with all laws, rules and regulations of appropriate agencies, specifically the Department of Environmental Protection (DEP), regarding noise levels, and concessionaire shall be responsible for payment of any and all fees or royalties to the American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc. (BMI), or such other entity as they may require for such music or music programming. Licensee may operate and play sound equipment and music only at a sound level reasonably acceptable to the Commissioner. Any musical programming or other types of entertainment must be approved by Parks. Outdoor amplified sound will not be permitted past 10pm.

7. PRICE LIST/MENU. All items to be sold and their price ranges must be approved by Parks. Once approved, a price list must be prominently displayed at the respective vending booths at all times and for all items offered for sale.

8. SIGNAGE AND ADVERTISEMENT. All signage at the Premises is subject to Parks’ prior written approval. The design and placement of all signage, including signage which includes Permittee’s name, trade name(s) and/or logos, is subject to Parks’ prior written approval. Permittee shall provide and install adequate directional signage to direct patrons of the general location and name of the vendor booths, and entrances/exits throughout the Premises. The placement, design and contents of all directional signage is subject to Parks’ prior written approval and should be in place by the date operations at the Premises open to the public.

Permittee is prohibited from displaying, placing or permitting the display or placement of advertisements in the Premises without the prior written approval of Parks.

The display or placement of advertising for tobacco products, non-tobacco smoking products, or electronic cigarette advertising shall not be permitted. The advertising of alcoholic beverages shall not be permitted but Permittee may display signage approved by Parks setting forth its offerings of alcoholic beverages. The following standards will apply to all allowed advertising: Any type of advertising which is false or misleading, which promotes unlawful or illegal goods, services or activities, or which is otherwise unlawful, including but not limited to advertising that constitutes the public display of offensive sexual material in violation of Penal Law Section 245.11, shall be prohibited. Any prohibited material displayed or placed shall be immediately removed by Permittee upon notice from Parks at Permittee’s sole cost and expense.

9. NO EXCLUSIVE RIGHTS. This Permit does not grant Permittee exclusive rights to sell in the park in which the Premises are located. Moreover, Parks may grant other permits to vendors to sell the same or similar items authorized under this Permit within the same park in which the Premises are located. Permittee acknowledges and understands that Parks does not guarantee that illegal vendors, persons unauthorized by Parks or disabled veteran vendors will not compete with Permittee or operate near the Premises.

10. ACCESS.

(a) To limit traffic concerns, Permittee and participating vendors may only bring vehicles onto the site for loading and unloading supplies and equipment for the operation of the holiday market, on a scheduled approved by Parks. With the exception of loading and unloading supplies, vehicles may not remain on parkland.

(b) Permittee shall direct all vendors to maintain access lanes where necessary. The path of travel must be unobstructed with a firm, stable surface and free from trip hazards. Parks will retain the authority to guarantee unimpeded pedestrian access along the sidewalks and pathways affected by concession operations at the Premises. Neither Permittee nor any of the participating vendors shall block sidewalks, entrances or exits of the Premises, park on any sidewalks, and/or leave vehicles on the Premises at any time, unless otherwise permitted. Permittee shall direct any participating vendors to place their equipment and supplies in such manner that at least a six (6) foot walkway is available to pedestrians at all times, and there shall be at least six (6) feet between vendors and the curb during loading- in or -out. Where there are other, non-participating vendors present along the curb or sidewalk, there must be at least six feet between the vendor and the edge of the proposed market layout at the Premises. Parks has the authority to require more than six feet where needed.)

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(c) Permittee shall provide Parks with full and free access to the Premises to ensure Parks' satisfaction with the Permittee's compliance with the terms of this Permit.

11. AMERICANS WITH DISABILITIES ACT ("ADA") COMPLIANCE. Permittee shall provide and comply with ADA accessibility throughout the Premises. Permittee shall comply with all City, State and Federal requirements to provide safe and accessible opportunities for everyone, including persons with disabilities. Permittee is encouraged to exceed all accessibility requirements whenever possible and not simply provide the minimum level required. Permanent and temporary structures must be fully accessible per the NYC Building Code and the ADA Accessibility Standards, including, but not limited to, access into individual vendor stalls. The concessionaire must provide an accessible path of travel 5' in width, unobstructed, firm stable surface and free from trip hazards.

12. TERMINATION. (a) If the Permittee does not comply with the terms of the Permit, the Permit may be terminated. The City may terminate this Permit at any time for any reason. Permittee will be given a written termination notice should the City opt to terminate the Permit, such termination shall be immediately effective upon the mail or delivery by hand or facsimile. Permittee expressly waives any and all claims against the City including its officials and employees, for losses and/or damages Permittee may suffer in the event of termination. The City will not consider proposals for reimbursement of Permittee's unamortized capital improvement costs. (b) Should Permittee breach or fail to comply with any of the provisions of this Permit or any Federal, State or local law, rule, regulation or order concerning operations pursuant hereto or concerning the Premises, parks may provide Permittee written notice to remedy such breach or failure to comply and in the event Permittee fails to remedy such breach or failure to comply within five (5) days of receipt of such notice, then this Permit shall immediately terminate. (c) Upon expiration or sooner termination of this Permit, all rights of Permittee shall be forfeited without claim for loss, damage, refund of investment or any other payment whatsoever against the City or any of its officials or employees

13. TERMINATION AND REMOVAL. Upon the expiration or sooner termination of this Permit, Permittee shall immediately cease all operations under this Permit and shall vacate the Premises without any further notice by Parks and without resort to any judicial determination regarding termination of this Permit. Parks reserves the right to take immediate possession of the Premises.

Permittee shall, on or prior to the expiration or termination date, remove all Permittee's personal property, supplies and equipment from the Premises. Any personal property, supplies or equipment remaining on the Premises after the expiration, or sooner termination, of this Permit, shall be deemed abandoned by Permittee. Permittee shall remain liable to the City for any damages, including lost revenue to Parks and the cost of removal or disposal of personal property left at the Premises should Permittee fail to cease operations, vacate or remove all possessions from the Premises on or before the expiration or termination date.

Upon the expiration or sooner termination of this Permit, Permittee shall return the premises to Parks free of litter and in as good repair and condition as the premises were found by Permittee prior to the commencement of operations at the Premises.

Permittee shall, on or prior to the expiration or sooner termination of this Permit, return to Parks any permit stickers issued to Permittee by Parks.

14. SNOW, RUBBISH REMOVAL AND RECYCLING. Permittee will be responsible for, at its sole cost and expense, clean-up and removal of all snow, waste, garbage, refuse, rubbish and litter from the Premises and the area within fifty (50) feet of the Premises during Setup Period, Takedown Period, and the Operating Season. Permittee shall provide adequate and easily accessible waste and recycling receptacles, approved by Parks, and have these receptacles emptied on a daily basis and removed by a private carter. The location and placement of all waste and recycling receptacles is subject to Parks' prior written approval. Permittee shall comply with all City, State, and Federal regulations regarding recycling. Rubbish removal schedules are subject to Parks' prior approval. Permittee shall keep all signs and structures on the premises in good condition and free of graffiti. All cartons, boxes, cardboard and other refuse must be disposed of off-site; such items may at no time be placed in Parks' trash receptacles. In addition, Permittee must demonstrate to Parks' satisfaction, through a detailed maintenance plan, that it will keep and maintain the concession site in excellent condition throughout each Season of the Term.

15. MAINTENANCE. During each Season, Permittee shall, at its sole cost and expense (or through arrangements with third parties), install, operate and manage the Premises in good and safe condition and in accordance with industry standards and shall make all necessary repairs to the premises caused by operation of the market during the Term of this Permit. This includes, but is not limited to, the maintenance and repair of the

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entire Premises, booths, kiosks or other vending units, all interior and exterior structures, building systems, utility systems and connections, sewer systems and connections, equipment, lighting, sidewalks and walkways, fencing and gates, paved areas, vaults, gutters, curbs, and fixtures. In addition, all signs and structures on the Premises must be kept in good condition and free of graffiti. Permittee shall make all repairs to the Premises necessitated by its operations during the Term. Permittee and its approved vendors shall maintain any equipment necessary to the operation of the concession, including any booth, kiosk or other vending unit, in clean, good operating condition without any broken parts or obvious damage. In addition, the Permittee shall demonstrate to Parks satisfaction, through a detailed maintenance plan, that they will keep and maintain the concession site in excellent condition throughout the permit term. The erecting of any ancillary structures at the Permitted Premises shall be subject to Parks' prior written approval.

In addition, Permittee shall be responsible for regular pest control inspections and extermination at the Premises, as needed, during the Season. To the extent Permittee applies pesticides to any property owned or leased by the City, Permittee or any subcontractor hired by Permittee shall comply with Chapter 12 of Title 17 of the New York City Administrative Code and limit the environmental impact of its pesticide use.

16. NO ROVING. Permittee's employees and its vendors shall remain at the Premises at all times during the hours of operation authorized hereunder. Permittee and participating vendors may enter and leave the park to get to and from the Premises but Permittee and participating vendors shall not rove within the park selling any goods or services. Parks reserves the right to relocate Permittee temporarily or suspend Permittee's operations for construction and special or unforeseen events.

17. TOBACCO/ALCOHOL. The sale and/or advertisement of tobacco products, non-tobacco smoking products, or electronic cigarettes is strictly prohibited. The display or placement of advertising of alcoholic beverages shall not be permitted but Permittee may display signage approved by Parks setting forth its offerings of alcoholic beverages. In addition, smoking any tobacco product and the use of electronic cigarettes are strictly prohibited at the Premises, except in parking lots or on sidewalks along the park perimeter. It is the Permittee's responsibility to adhere to and enforce the prohibitions of this Section 17.

Alcoholic beverages may be served to complement the food service, provided that the concessionaire obtains the

appropriate license(s) from the State Liquor Authority (SLA). Alcoholic beverages may only be served in the immediate vicinity of the Licensed Premises and/or in a cordoned-off area if exterior seating is proposed and must be consumed on the Licensed Premises within designated areas. All efforts must be made to keep alcohol consumption discrete. The operator must keep in mind that this is a public park and the consumption of alcohol should be encouraged only as an accompaniment to the cuisine.

18. TREES. The cutting down, pruning or removing of any trees on the Premises without prior written approval from Parks and any other entity with jurisdiction over the park within which the Premises is located is strictly prohibited. Any attachments to the trees, such as, but not limited to, lights, will not be permitted. Moreover, Permittee shall submit a plan for Parks approval to protect trees and tree roots within the Premises. Once approved by Parks, the concessionaire must ensure compliance with said plan. All work to be performed at the Licensed Premises is subject to Parks' prior written approval.

19. SECURITY. Pursuant to a plan approved in writing by Parks, Permittee, at its sole cost and expense, shall be responsible for all security at the Premises and provide a 24 hour-a-day security system, from the beginning of each Setup Period continuously through the end of the subsequent Takedown Period, including the entire Operating Season. Permittee and its vendors shall secure the Premises and any other equipment every evening.

20. SECURITY DEPOSIT. Permittee's security deposit ("Security Deposit") in the dollar amount as set forth on the Cover Page of this Permit, will be held, without liability for the City to pay interest thereon, to ensure that Permittee fulfills all the terms and conditions of this Permit. Upon affixing its signature to this Permit, Permittee shall provide the City with a certified check, or any other negotiable instrument approved by Parks payable to the City of New York Department for Parks & Recreation as its Security Deposit. The Security Deposit shall be held by the City, without liability for the City to pay interest thereon, as security for the full, faithful and prompt performance of and compliance with each and every term and condition of this Permit to be observed and performed by the Permittee. The Security Deposit shall remain with the City throughout the Term of this Permit.

a. The City shall not be obligated to place or to keep cash deposited hereunder in interest-bearing accounts. If Permittee fails to perform any of the terms of this Permit, Parks may, at its option, and without prejudice to any other remedy which the City may have on account

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thereof, after ten (10) days' notice, appropriate and apply the Security Deposit or as much required to compensate the City toward (a) the payment of sums due from the Permittee or (b) any loss, damage or expense sustained by the City resulting from such default on the part of Permittee. If Permittee fails to comply with paragraph 6(k) or Article 12 of this Permit, Park's costs as a result thereof will be deducted from Permittee's security deposit. If Permittee fails to make timely fee payments, Permittee's security deposit may be seized. If Permittee operates without insurance or in a location other than the premises or at times not allowed by this Permit, Parks may also seize Permittee's security deposit. If Permittee causes any damage to Park's property, the security deposit may also be used to pay for the repairs. If part of Permittee's Security Deposit is appropriated for any purpose, Permittee shall replace that sum within thirty (30) days of Parks appropriation of such sum. Failure to replace such sum as required herein may result in the termination of this Permit. Permittee is responsible for any costs beyond those covered by the Security Deposit. If Permittee ceases Permittee's operations at the Premises prior to the termination of this Permit, Parks may seize Permittee's Security Deposit.

In the event that Permittee shall fully and faithfully comply with all of the terms, covenants and conditions of this Permit and pay all permit fees and other charges and sums payable by Permittee to the City, the Security Deposit shall be returned to Permittee upon the expiration of this Permit.

21. **LATE PAYMENTS.** A late charge may be assessed for any fee payment not received by Parks on or prior to the payment dates specified on the Cover Page. A late charge of 2% per month may be applied to any unpaid balance that is overdue for ten (10) days following the date for which such fees are due. For example: If a monthly payment of \$1,000.00 is due on the 1st day of the month a 2% late charge in the amount of \$20.00 will be assessed on the 11th day of the month if no payment is received by the 10th day.

22. **INSURANCE.**

(a) **Licensee's Obligation to Insure.**

(i) From the date of this Permit through the date of its expiration or earlier termination, Permittee shall ensure that the types of insurance indicated in this Section are obtained and remain in force, and that such insurance adheres to all requirements herein.

(ii) The Permittee is authorized to undertake or maintain operations under this Permit only during the effective period of all required coverage.

(b) **Commercial General Liability Insurance.**

(i) Permittee shall maintain Commercial General Liability ("CGL") insurance in the amount of at least One Million Dollars (\$1,000,000) per occurrence for bodily injury (including death) and property damage and One Million Dollars (\$1,000,000) for personal and advertising injury, and if the policy contains an aggregate limit, the aggregate shall apply on a per-location basis with the Premises counted as a separate location from any other location, and the per-location aggregate shall be at least Two Million Dollars (\$2,000,000), and an excess liability coverage of at least Three Million Dollars (\$3,000,000). This insurance shall protect the insureds from claims that may arise from any of the operations under this Permit. Coverage shall be at least as broad as that provided by the most recently issued Insurance Services Office ("ISO") Form CG 0001, shall contain no exclusions other than as required by law or as approved by the Commissioner, and shall be "occurrence based" rather than "claims-made." Such CGL insurance shall name the City, and Central Park Conservancy ("CPC") together with their respective officials and employees as Additional Insureds with coverage at least as broad as the most recent edition of ISO Form CG 20 26, and the Indemnitees' limits shall be no less than the Permittee's.

(ii) Such CGL insurance shall be primary and non-contributing to any insurance or self-insurance maintained by any of the Indemnitees. A certified copy of this CGL policy or a Certificate of Insurance (evidencing the CGL insurance and Indemnitees' status as additional insured) must be submitted to and accepted by the Commissioner prior to or upon execution of this Permit.

(c) **Workers' Compensation, Employers Liability, and Disability Benefits Insurance.** During the Term of the Permit, Permittee shall also carry statutory limits of Worker's Compensation, Employer's Liability and Disability Benefits Insurance in the following acceptable forms: (1) C105-C; (2) State Insurance Fund Form No. U-26.3; (3) New York State Workers' Compensation Board Form No. DB-120.1; (4) equivalent or successor forms used by the New York State Workers' Compensation Board; (5) or other proof of insurance in a form acceptable to the Commissioner, on behalf of, or with regard to, all employees involved in the operation under this Permit, and such insurance shall comply with the laws of the State of New York. If Permittee is or intends to be exempt from the requirements of the New York State Workers' Compensation Law, Permittee must submit Certificate of Exemption Form No. CE-200.

(d) **Commercial Automobile Liability Insurance.** If vehicles are to be used in connection with Permittee's operations, Permittee shall carry Commercial Automobile Liability insurance in the amount of \$1,000,000 for each accident combined single limit for

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liability arising out of ownership, maintenance or use of any owned, non-owned or hired vehicles. If Permittee does not provide proof of compliance with this requirement, no vehicular use will be permitted within Parks boundaries.

(e) **Liquor Law Liability Insurance.** In the event that Permittee, sublicensees, participating vendors, and/or contractors provide liquor, wine, and cider sampling along with sales of closed bottles for take away, Permittee, sublicensees, participating vendors, and/or other contractors shall carry or cause to be carried liquor law liability insurance in an amount not less than Two Million Dollars (\$2,000,000) per occurrence and name the City and Central Park Conservancy, together with their respective officials and employees, as additional insureds.. Such insurance shall be effective prior to the commencement of any such service of alcohol and continue throughout such operations. At his or her sole discretion, the Commissioner may increase or decrease the limit(s) if the Commissioner believes that the nature of such operations merit increase or decrease. Further, Permittee shall cause any vendor, by contract or otherwise, to procure insurance with regard to any operations related to the concessionaire’s Permit Agreement with Parks and require such entity to name both the City, the Central Park Conservancy and Concessionaire as additional insured under such insurance. Individual vendors are required to carry Commercial General Liability Insurance in at least one million dollars (\$1,000,000) per occurrence. Two million (2,000,000) aggregate. The City’s coverage thereunder shall be at least as broad as the vendors’.

(f) **General Requirements for Insurance Coverage and Policies.**

(i) Policies of insurance required under this Section shall be provided by companies that may lawfully issue such policy and that have an A.M. Best rating of at least A- / VII, a Standard & Poor’s rating of at least A, a Moody’s Investors Service rating of at least A3, a Fitch Ratings rating of at least A- or a similar rating by any other nationally recognized statistical rating organization acceptable to the New York City Law Department unless prior written approval is obtained from the New York City Law Department.

(ii) Policies of insurance required under this Section shall be primary and non-contributing to any insurance or self-insurance maintained by the City.

(iii) Wherever this Section requires that insurance coverage be “at least as broad” as a specified form (including all ISO forms), there is no obligation that the form itself be used, provided that the Licensee can demonstrate that the alternative form or endorsement contained in its policy provides coverage at least as broad as the specified form.

(iv) There shall be no self-insurance program or self-insured retention with regard to any insurance required under this Section unless approved in writing by the Commissioner. Under no circumstances shall the City be responsible for the payment of any self-insured retention (or any other aspect of a self-insurance program). Further, the Licensee shall ensure that any such self-insurance program provides the City with all rights that would be provided by traditional insurance under this Section, including but not limited to the defense and indemnification obligations that insurers are required to undertake in liability policies.

(v) The City’s limits of coverage for all types of insurance required under this Section shall be the greater of (i) the minimum limits set forth in this Section or (ii) the limits provided to the Licensee under all primary, excess and umbrella policies covering operations under this Permit.

(vi) All required policies, except for Workers’ Compensation insurance, Employers Liability insurance, and Disability Benefits insurance, shall contain an endorsement requiring that the issuing insurance company endeavor to provide the City with advance written notice in the event such policy is to expire or be cancelled or terminated for any reason, and to mail such notice to both the Commissioner, City of New York Department of Parks and Recreation, Arsenal, 830 Fifth Avenue, New York, NY 10065, and the New York City Comptroller, Attn: Office of Contract Administration, Municipal Building, One Centre Street, Room 1005, New York, New York 10007. Such notice is to be sent at least (30) days before the expiration, cancellation or termination date, except in cases of non-payment, where at least ten (10) days written notice would be provided.

(vii) All required policies, except Workers’ Compensation, Employers Liability, Disability Benefits, shall include a waiver of the right of subrogation with respect to all insureds and loss payees named therein.

(g) **Proof of Insurance.**

(i) Certificates of Insurance for all insurance required in this Section must be submitted to and accepted by the Commissioner prior to or upon execution of this License.

(ii) For Workers’ Compensation, Employers Liability Insurance, Disability Benefits insurance policies, the Permittee shall submit one of the following: C-105.2 Certificate of Worker’s Compensation Insurance; U-26.3 -- State Insurance Fund Certificate of Workers’ Compensation Insurance; Request for WC/DB Exemption (Form CE-200); SI-12, Certificate of Workers’ Compensation Self-Insurance; GSI-105.2, Certificate of Participation in Workers’ Compensation Group Self-Insurance; DB-120.1 Certificate of Disability Benefits Insurance; DB-155, Certificate of Disability Benefits Self-Insurance; equivalent or successor forms

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used by the New York State Workers' Compensation Board; or other proof of insurance in a form acceptable to the City. ACORD forms are not acceptable proof of workers' compensation coverage.

(iii) For all insurance required under this Section other than Workers' Compensation, Employers Liability, and Disability, the Permittee shall submit one or more Certificates of Insurance in a form acceptable to the Commissioner. All such Certificates of Insurance shall (a) certify the issuance and effectiveness of such policies of insurance, each with the specified minimum limits; and (b) be accompanied by the provision(s) or endorsement(s) in the Permittee's policy/ies (including its general liability policy) by which the City and the Central Park Conservancy has been made an additional insured or loss payee, as required herein. All such Certificates of Insurance shall be accompanied by either a duly executed "Certification by Insurance Broker or Agent" in the form required by the Commissioner, attached hereto as **Exhibit C**, or certified copies of all policies referenced in such Certificate of Insurance.

(iv) Certificates of Insurance confirming renewals of insurance shall be submitted to the Commissioner prior to the expiration date of coverage of policies required under this Section. Such Certificates of Insurance shall comply with the requirements of this Section, as applicable.

(v) Permittee shall provide the City with a copy of any policy required under this Section upon the demand for such policy by the Commissioner or the New York City Law Department.

(vi) Acceptance by the Commissioner of a certificate or a policy does not excuse the Permittee from maintaining policies consistent with all provisions of this Section (and ensuring that subcontractors maintain such policies) or from any liability arising from its failure to do so.

(h) Miscellaneous.

(i) The Permittee may satisfy its insurance obligations under this Section through primary policies or a combination of primary and excess/umbrella policies, so long as all policies provide the scope of coverage required herein.

(ii) Permittee shall require its construction contractors that perform construction on the Premises to maintain Commercial General Liability Insurance in accordance with Section 25(b), and such insurance shall include the City, including its officials and employees, as an additional insured with coverage at least as broad as ISO Forms CG 20 26 and CG 20 37. In the event the Permittee requires any other entity, by contract or otherwise, to procure insurance with regard to any operations under this Permit and requires such entity to name the Permittee as an Additional Insured under such insurance, the Permittee shall ensure that such entity also

name the City, including its officials and employees, as an Additional Insured (with coverage for Commercial General Liability insurance at least as broad as ISO form CG 20 26).

(iii) The Permittee shall be solely responsible for the payment of all premiums for all policies and all deductibles to which they are subject, whether or not the City is an insured under the policy.

(iv) Where notice of loss, damage, occurrence, accident, claim or suit is required under a policy maintained in accordance with this Section, the Permittee shall notify in writing all insurance carriers that issued potentially responsive policies of any such event relating to any operations under this License (including notice to Commercial General Liability insurance carriers for events relating to the Licensee's own employees) no later than 20 days after such event. For any policy where the City is an Additional Insured, such notice shall expressly specify that "this notice is being given on behalf of the City of New York as Insured as well as the Named Insured." Such notice shall also contain the following information: the number of the insurance policy, the name of the named insured, the date and location of the damage, occurrence, or accident, and the identity of the persons or things injured, damaged or lost. The Permittee shall simultaneously send a copy of such notice to the City of New York c/o Insurance Claims Specialist, Affirmative Litigation Division, New York City Law Department, 100 Church Street, New York, New York 10007.

(v) The Permittee's failure to secure and maintain insurance in complete conformity with this Section, or to give the insurance carrier timely notice on behalf of the City, or to do anything else required by this Section shall constitute a material breach of this Permit. Such breach shall not be waived or otherwise excused by any action or inaction by the City at any time.

(vi) Insurance coverage in the minimum amounts provided for in this Section shall not relieve the Permittee of any liability under this Permit, nor shall it preclude the City from exercising any rights or taking such other actions as are available to it under any other provisions of this Permit or the law.

(vii) In the event of any loss, accident, claim, action, or other event that does or can give rise to a claim under any insurance policy required under this Section, the Permittee shall at all times fully cooperate with the City with regard to such potential or actual claim.

(viii) Apart from damages or losses covered by Workers' Compensation Insurance, Employers Liability Insurance, Disability Benefits Insurance, or Commercial Automobile Insurance, the Permittee waives all rights against the City, including its officials and employees, for any damages or losses that are covered under any insurance required under this Section (whether or not such insurance is actually procured or claims are paid

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thereunder) or any other insurance applicable to the operations of the Permittee and/or its employees, agents, or servants of its contractors or subcontractors.

(ix) In the event the Permittee receives notice, from an insurance company or other person, that any insurance policy required under this Section shall expire or be cancelled or terminated (or has expired or been cancelled or terminated) for any reason, the Permittee shall immediately forward a copy of such notice to both the Commissioner, City of New York Department of Parks and Recreation, Arsenal, 830 Fifth Avenue, New York, NY 10065, and the New York City Comptroller, attn: Office of Contract Administration, Municipal Building, One Centre Street, Room 1005, New York, New York 10007. Notwithstanding the foregoing, the Permittee shall ensure that there is no interruption in any of the insurance coverage required under this Section.

23. INDEMNIFICATION AND HOLD HARMLESS.

(a) Permittee Responsibility.

(i) Permittee shall be solely responsible for the safety and protection of its employees, agents, servants, participating vendors, sublicensees, subpermittees, contractors, and subcontractors, and for the safety and protection of the employees, agents, or servants of its participating vendors, sublicensees, subpermittees, contractors or subcontractors.

(ii) Permittee shall be solely responsible for taking all reasonable precautions to protect the persons and property of the City, the Central Park Conservancy or others from damage, loss or injury resulting from any and all operations under this Permit.

(iii) Permittee shall be solely responsible for injuries to any and all persons, including death, and damage to any and all property arising out of or related to the operations under this Permit, whether or not due to the negligence of the Permittee, including but not limited to injuries or damages resulting from the acts or omissions of any of its employees, agents, servants, participating vendors, sublicensees, subpermittees, contractors, subcontractors, or any other person.

(iv) Permittee shall use the Premises in compliance with, and shall not cause or permit the Premises to be used in violation of, any and all federal, state or local environmental, health and/or safety-related laws, regulations, standards, decisions of the courts, permits or permit conditions, currently existing or as amended or adapted in the future which are or become applicable to Permittee or the Premises (collectively "Environmental Laws"). Except as may be agreed by the City as part of this Permit, Permittee shall not cause or permit, or allow any of Permittee's personnel or participating vendors to cause or permit, any Hazardous Materials to be brought upon, stored, used generated, treated or disposed of on the Premises. As used herein, "Hazardous Materials" means any chemical, substance or material which is now

or becomes in the future listed, defined or regulated in any manner by any Environmental Law based upon, directly or indirectly, its properties or effects.

(b) Indemnification and Related Obligations.

(i) To the fullest extent permitted by law, Permittee shall indemnify, defend and hold the City and the Central Park Conservancy, including their respective officials and employees (collectively, the "Indemnitees," each, an "Indemnitee") harmless against any and all claims, even if the allegations of the claim are without merit, liens, demands, judgments, penalties, fines, liabilities, settlements, damages, costs and expenses of whatever kind or nature (including, without limitation, attorneys' fees and disbursements) to which the City or the Central Park Conservancy or their respective officials or employees may be subject to or which they may suffer or incur arising out of or related to any of the operations under this Permit (regardless of whether or not Permittee itself has been negligent) and/or Permittee's failure to comply with the law or any of the requirements of this Permit. Insofar as the facts or law relating to any of the foregoing would preclude the City, the Central Park Conservancy and their respective officials and employees from being completely indemnified by Permittee, Permittee shall indemnify that Indemnitee to the fullest extent permitted by law.

(ii) Permittee's obligation to defend, indemnify and hold the City, the Central Park Conservancy and their respective officers and employees harmless shall not be (1) limited in any way by Permittee's obligations to obtain and maintain insurance under this Permit, nor (2) adversely affected by any failure on the part of the City, the Central Park Conservancy or their respective officers and employees to avail themselves of the benefits of such insurance.

(iii) To the fullest extent permitted by law, Permittee shall defend, indemnify and hold harmless the City, the Central Park Conservancy and their respective officials and employees, against any and all claims (even if the allegations of the claims are without merit), judgments for damages, and costs and expenses of whatever kind or nature (including without limitation, Attorneys' fees and disbursements) to which the City, the Central Park Conservancy and their respective officials and employees, may be subject to or which they may suffer or incur allegedly arising out of any infringement, violation or unauthorized use of any copyright, trade secret, trademark or patent or any other property or personal right of any third party by the Permittee and/or its employees, agents, or subcontractors in the performance of this Permit. To the fullest extent permitted by law Permittee shall defend, indemnify and hold harmless the City, the Central Park Conservancy and their respective officials and employees, regardless of whether or not the alleged infringement, violation or unauthorized use arises out of compliance with this Permit. In so far as the facts or law relating to any of the foregoing would preclude the City, the Central Park Conservancy and their respective officials and employees from being completely indemnified by

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Permittee, the City, the Central Park Conservancy and their respective officials and employees shall be partially indemnified Permittee to the fullest extent of the law.

24. **STORAGE/PARKING.** Parks makes no representation that there is adequate storage space or parking at the Premises. Permittee is responsible, at its sole cost and expense, for obtaining any additional storage space required for the operation of the concession granted hereby. Permittee shall not store any equipment or supplies at the Premises without the prior written approval of Parks. No item shall be placed upon any public space, including the ground adjacent to the Premises, without Parks' prior written approval. Permittee shall store all equipment any time the concession is closed. Permittee may not park private, commercial or delivery vehicles at the Premises without Parks' prior approval

25. **UTILITIES.** Parks makes no representations regarding the adequacy of utilities currently in place at the Premises. Permittee, at its sole cost and expense is required to connect to and/or upgrade any existing utility service or create a new utility system, and obtain the appropriate permits and approvals. This includes establishing a dedicated meter and/or submeters that captures electricity usage on the licensed premises and an account with Con Edison (or other relevant providers) as appropriate. Permittee may not use light poles or pole taps or otherwise tap into Parks' electricity as a source of electricity without Parks' prior written approval. Permittee shall provide generators necessary for its electricity needs. Generators must be reasonably silent and operated in compliance with Federal, State and City regulations. Permittee shall use generators that can operate using B5bio-diesel. Permittee is required to pay for any and all utility costs connected with the operation of the concession granted hereby during the Term. These utility costs include, but are not limited to, the installation of all necessary utilities, service lines, conduits, water meters and pipes, paying all water and sewer charges that the Department of Environmental Protection ("DEP") assesses for water usage. Permittee shall remove any unsuitable existing materials, as required. Parks does not make representation or warranty that existing utility services are adequate for Permittees' needs or that any entity can or will make such service available. Permittee must adhere to all DEP directives and restrictions regarding drought and water conservation issues during the Term. Where applicable, Permittee shall reimburse Parks for all costs to Parks for providing electrical, oil, gas, water and other utilities to Permittee at the premises. Permittee shall reimburse Parks within thirty (30) days of its receipt of a bill from Parks. Failure to reimburse Parks as requested may result in the appropriation of Permittee's security deposit.

For any vehicle fuel dispensing tanks or underground heating oil storage tanks over 1,100 gallon capacity, Licensee shall maintain up-to-date Petroleum Bulk Storage

("PBS") registrations with State Department of Environmental Conservation ("DEC") and register such tanks with the DEP. Licensee shall assume all registration and update costs. Licensee shall keep a copy of the PBS Certificate on site and provide copies to Parks 5-Boro Office on Randall's Island, New York. Licensee shall perform or have performed a tightness test conducted at least once every five (5) years, and shall comply with Parks monitoring leak detection checklists for the tank(s) and all other legal requirements. Any changes, removals or additions of tanks must be pre-approved by Parks.

26. **FIXED EQUIPMENT.** Any construction, installation, renovation, or improvements made to the Premises requires prior written approval from the City. Title to any renovation, or improvements made to the Premises shall vest in and belong to the City at the City's option, which option may be exercised at any time after the substantial completion of the affixing of said equipment or the substantial completion of such construction, renovation or improvement. To the extent City chooses not to exercise such option Permittee shall remove such items at its sole cost and expense and restore the Premises to its original condition and to the satisfaction of Parks. All equipment and fixtures now at, or added to the Premises shall be referred to as "Fixed Equipment".

27. **RECORDS OF SALES.** Permittee shall maintain a revenue control system to ensure the accurate and complete recording of all revenues Permittee receives from operations pursuant to this Permit in a form and manner acceptable to the City. Permittee shall maintain records of the following information in a form suitable for audit by Parks and/or the City Comptroller's Office:

(a) All payments, funds and fees received by Permittee from vendors operating vending booths at the Premises and from sponsorships.

(b) Sales information (payments made to Permittee by vendors) must be posted daily in a formal set of books or records of account.

(c) All deposits related to revenue under this Permit must be deposited regularly in a separate, dedicated bank account located in New York City.

(d) Records of the operation (including checks and money orders received) from booth vendors authorized hereunder shall be retained for a period of at least ten (10) years from the date of creation of the record.

(e) Permittee shall have sequentially numbered, signed contractual agreements with each booth vendor. Such contractual agreements shall include the fee paid to Permittee for the booth, the amount of space provided, and the location of the booth on the Premises.

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28. STATEMENT OF GROSS RECEIPTS AND INCOME. On or before sixty (60) days after the end of each Season, pursuant hereto, Permittee shall submit to Parks a certified statement of gross receipts received generated from all operations under this Permit for that Season, properly segregated so as to permit audit by Parks or the City. Furthermore, any applicable percentage payments derived from the operation of each holiday market pursuant hereto shall be due on or before the ninetieth (90) day after the last day of each operation of each season. Each statement must indicate whether the receipts being reported are inclusive of sales taxes collected or net of taxes; the Permit number, location, and period of time covered. For the purposes of this Permit, gross receipts include all funds received by Permittee without deduction or set-off of any kind, including but not limited to, vendor fees and sponsorships. This statement must be submitted on a form provided or approved by Parks.

In addition, Permittee must have available, at the request of Parks, monthly statements of gross receipts, as well as a detailed income and expense statements for past years' operation throughout the Term. Additionally, Parks represents that vending machines are not currently located at the Premises and the parties acknowledge that Permittee will not be allowed to place any vending machines at the Permitted Premises during the term of this Permit.

Permittee shall pay all taxes applicable to the operation of the concession. Gross receipts shall exclude the amount of any federal, state, or city sales taxes which are paid by the Permittee as against its sales.

29. AUDIT. Permittee shall make available to the Office of The Comptroller of the City of New York, or Parks' auditor, on demand, all books, records, documents and correspondence pertaining to this Permit, for the purpose of examination, audit, review or any purpose deemed necessary by the Office of The Comptroller of the City of New York or the Commissioner of Parks.

30. TAXES. Permittee is responsible for obeying all relevant laws, rules and regulations and obtaining all necessary permits and licenses. Permittee shall obtain and provide to Parks a New York State Sales Tax Number from the New York City Department of Finance. Permittee shall collect and pay New York State and City Sales Tax as well as all other applicable taxes for the operation of this concession. If the Premises are in the Borough of Manhattan, south of 96th Street, Permittee shall pay the New York City Commercial Rent or Occupancy taxes.

31. NOTICE TO CURE. Permittee shall comply with

all directions and instructions Parks issued to Permittee. Failure to comply with any such directive or with any of the provisions of this Permit within ten (10) days or any shorter period set forth in any directive may result in the suspension and/or termination of this Permit. Parks may impose a Two Hundred Fifty Dollars (\$250) administrative fee for reinstatement of a suspended Permit.

32. SUSPENSION. This Permit may be suspended for any reason with written notice from Parks. Such suspension shall be effective within ten (10) business days from the day of the mailing, electronic or hand delivery thereof. In the event of such notice of suspension, Permittee shall not operate from or after the effective date of the notice. In the event that Permittee's business is disrupted due to construction in the park where the Premises is located, this Permit may be suspended, at Parks' option. If the suspension is related to Parks' construction, Parks in its sole discretion may extend the Term of this Permit by the amount of time Permittee was prevented from operating.

33. OTHER PERMITS AND/OR LICENSE.

(a) A Parks' Permit is not a substitute for other required permits and licenses. For many locations, and for many types of concessions, more than one license or permit may be required by the City. It is Permittee's legal obligation to comply fully with the Rules of the City of New York, and ensure that the operation of the holiday market complies with the said rules.

(b) Any staff or participating vendors assigned by the Permittee to sell food and beverages to the public must possess all Federal, State and City authorizations, and possess, and at all times display, appropriate New York City Consumer Affairs License, New York City Department of Health and Mental Hygiene ("DOHMH") permits and any other required license or permit. In addition to a Parks' Permit, at all times that a food vending booth is operating, a staff person with a valid DOHMH food handler's license must be present and Permittee must have all other required DOHMH permits and licenses. Permittee should also note that food vendors may be subject to DOHMH letter grading program.

(c) If Permittee is operating without all necessary permits and licenses, Permittee and its participating vendors may be subject to fines and/or confiscation of merchandise. All food and beverages sold pursuant to this Permit must comply with all health code requirements. Permittee may operate the holiday market only if each vendor has obtained the appropriate, valid permits and authorizations required by DOHMH.

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(d) Permittee shall check for license/permit requirements with the following:

FOR NON-FOOD ITEMS: NYC Department of Consumer Affairs Citywide - Licensing Center, 42 Broadway, 5th Floor, New York, NY 10004. Or, call 311.

FOR FOOD ITEMS: Department of Health and Mental Hygiene 125 Worth Street, New York, NY 10013 or call 311.

(e) The concessionaire will be required to obtain and maintain any and all necessary approvals, permits, and licenses for the construction and lawful operation of this concession. This may include, but is not limited to, a Temporary Certificate of Occupancy and/or Temporary Public Assembly permits from Department of Buildings.

34. SPECIAL EVENTS: PARKS' BOOTH.

(a) Subject to prior written approval from Parks, the Concessionaire may conduct special events or programs (e.g., either arranged by Permittee or by reservation of all or part of the Premises through Permittee by third parties) at the Premises. Permittee acknowledges and agrees that no ticketed (including, but not limited to, payment of a fee at the door) events are permitted at the Premises, and in no event shall the Premises be closed to conduct private activities during the public hours of use except when such activities are specifically approved or sponsored by Parks and such closure has been announced to the public at least two weeks in advance of such activities or events. All revenue generated through such special events must be reported to Parks as Gross Receipts.

(b) Parks, acting on behalf of the City of New York, reserves the right to host a number of annual events at the Premises, including benefits and other non-profit or public events. The dates of such events shall be mutually agreed upon by both parties and shall be reserved in writing not less than one month in advance if the date of such events coincide during the Operating Season.

(c) At Parks' option, Permittee will provide Parks or Parks' designee, at no cost to Parks or Parks' designee, a booth at the Premises for the sale of Parks-approved merchandise and promotion material. At least ninety (90) days before the start of each Operating Season, Parks must notify the Permittee if Parks will be exercising this option for that Operating Season. The Parks' booth shall not count towards the maximum number of booths pursuant to the layout described in Exhibit A-1.

35. PERMIT/SIGNAGE DISPLAY. Permittee shall conspicuously display at all times the 311 sign and

the Permit Decal, or any other permit, license, sticker or identification issued to Permittee by Parks, the City or other governmental agency for display purposes on the booth or equipment necessary for the operation of the concession under this Permit. .

36. NO DISCRIMINATION. Permittee shall not unlawfully discriminate against any customer, employee or applicant for employment because of race, creed, sex, color, sexual preference or orientation, national origin, or any other protected class of individuals as defined by City, state or federal laws, rules or regulations. As used herein, the term "employment" shall mean and include, without limitation, the following: recruited, whether by advertising or other means, compensation, selected for training, including apprenticeship, promoted, upgraded, downgraded, transferred, laid off, and terminated. Any violation of this Article 37 shall be deemed a material breach of this Permit for which it may be terminated or suspended.

37. LIQUIDATED DAMAGES.

(a) Permittee agrees that any failure to perform requirements to such standard as set forth in this Permit shall result in injuries to the City and its residents, businesses and institutions the compensation for which will be difficult to ascertain. Accordingly Permittee agrees that notwithstanding any other remedy at law to ensure Permittee's compliance with the provisions of this Permit, the liquidated damages in the amounts set forth herein below are fair and reasonable compensation for such injuries and do not constitute a penalty or forfeiture.

(b) Parks' inspectors will visit the Premises unannounced to inspect operations, ensure proper maintenance of the Premises and determine whether Permittee is in compliance with the terms and conditions of this Permit. Based on these inspections, Parks may issue directives to Permittee regarding any violations found at the Premises. Permittee shall comply with all Parks directives within the time period specified therein. Any violations of the terms and conditions of this Permit may result in the assessment of liquidated damages, which, if not paid promptly, may be deducted from Permittee's security deposit. Additionally, if Permittee fails to provide the cleaning, maintenance, and operational services required by this Permit, Parks will notify Permittee in writing, and Permittee shall correct such shortcomings within the timeframe set forth in such notice. If Permittee fails to cure the violation within the timeframe set forth in the notice, Parks may, at its option, in addition to any other remedies available to it, assess liquidated damages and/or suspend or terminate this Permit. Parks may impose a \$250 administrative fee for reinstatement of a suspended Permit. Accordingly,

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Permittee agrees that notwithstanding any other remedy in equity or at Law to ensure Permittee’s compliance with the provisions of this Permit, Liquidated damages may be assessed in accordance with the following schedule:

| PROVISION | LIQUIDATED DAMAGES PER OCCURRENCE |
|---|-----------------------------------|
| Unauthorized Menu Items or Merchandise | \$150 |
| Missing or Unauthorized Price List | \$250 |
| Overcharging | \$350 |
| Blocked Exits | \$350 |
| Expanding | \$350 |
| Improper Disposal (noxious liquids, debris, etc.) | \$350 |
| Unauthorized Tapping Into Utilities Used, Operated or Owned by the City | \$350 |
| Booth or Equipment Obviously Damaged or in Poor Condition | \$250 |
| Unauthorized Advertising | \$350 |
| Roving or Vending at Unauthorized Location | \$250 |
| Improper Storage | \$350 |
| Graffiti, Dirty Vending Booth, Table or Premises | \$350 |
| Sticker Expired or Not Displayed | \$250 |
| Unauthorized Vehicular Activity | \$350 |
| Operating without Applicable Permit(s) or License(s) | \$350 |
| 311 Sign Not Displayed | \$250 |
| Vending without valid permit | \$350 |
| Unauthorized tapping into utilities used, operated or owned | \$350 |

by the City

Permittee will receive written notice each time that Parks determines Permittee has violated or failed to comply with the requirements set forth herein. If Permittee fails to pay liquidated damages to Parks within ten (10) days of receipt of notice, this Permit may be suspended or terminated. In addition, Parks may seize Permittee’s security deposit, described in Section 20 herein, to cover the amounts of any outstanding payments for liquidated damages.

(c) If Permittee receives an assessment for one of the above violations, there is a process by which such assessment may be appealed if Permittee believes that the assessment has been assessed in error. Permittee may file an appeal as follows:

(i) If Permittee wishes to appeal the assessment, a notice of appeal must be delivered to Parks within ten (10) days along with a statement of reasons why Permittee believes the assessment was erroneous. The statement of reasons must be notarized. Any evidence supporting Permittee’s appeal (such as photographs, documents, witness statements) should also be included.

(ii) If no appeal is received within 10 days of the date the assessment is mailed, the assessment shall be considered final and charged to Permittee’s account.

(d) Adjudication of an appeal:

(i) The appeal shall be sent to the Director of Operations Management & Planning (“OMP”), whose office is located at the Arsenal, 830 Fifth Avenue, New York, NY 10065. The Commissioner has designated the Director of OMP to decide on the merits of these appeals. The decision of the Director of OMP shall constitute the final decision of Parks.

(ii) The Director of OMP is authorized to investigate the merits of the appeal, but is not required either to hold a hearing or to speak to Permittee in person.

38. INSPECTIONS AND INVESTIGATIONS.

(a) Permittee shall allow the Commissioner, his representatives and any other City, state or federal official having jurisdiction and photo identification to inspect the Premises and the vending apparatus which Permittee operates at any time.

(b) The parties to this Permit shall cooperate fully and faithfully with any investigation, audit or inquiry conducted by a State of New York (hereinafter “State”) or City governmental agency or authority that is empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath, or conducted by the Inspector General of a governmental agency that is a party in interest to the

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transaction, submitted bid, submitted proposal, contract, lease, Permit, or license that is the subject of the investigation, audit or inquiry.

(c) (i) If any person who has been advised that his or her statement, and any information from such statement, will not be used against him or her in any subsequent criminal proceeding refuses to testify before a grand jury or other governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath concerning the award of or performance under any transaction, agreement, lease, Permit, contract, or license entered into with the City, the State, or any political subdivision or public authority thereof, or the Port Authority of New York and New Jersey, or any local development corporation within the City, or any public benefit corporation organized under the laws of the State of New York, or

(ii) If any person refuses to testify for a reason other than the assertion of his or her privilege against self-incrimination in an investigation, audit or inquiry conducted by a City or State governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to take testimony concerning the award of, or performance under, any transaction, agreement, lease, Permit, contract, or license entered into with the City, the State, or any political subdivision thereof or any local development cooperation within the City, then:

(A) The Commissioner or agency head whose agency is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, Permit, or license shall convene a hearing, upon not less than five (5) days written notice to the parties involved to determine if any penalties should attach for the failure of a person to testify.

(B) If any non-governmental party to the hearing requests an adjournment, the Commissioner or agency head who convened the hearing may, upon granting the adjournment, suspend any contract, lease, Permit, or license pending the final determination pursuant to paragraph (e) below without the City incurring any penalty or damages for delay or otherwise.

(d) The penalties which may attach after a final determination by the Commissioner or agency head may include but shall not exceed:

(i) The disqualification for a period not to exceed five (5) years from the date of an adverse determination of any person or entity of which such person was a member at the time the testimony was sought, from submitting bids for, or transacting business with, or entering into or obtaining any contract, lease, Permit or license with or from the City, and/or

(ii) The cancellation or termination of any and all

existing City contracts, leases, Permits or licenses that the refusal to testify concerns and that have not been assigned as Permitted under this Permit, nor the proceeds of which pledged, to an unaffiliated and unrelated institutional lender for fair without the City incurring any penalty or damages on account of such cancellation or termination; monies lawfully due for goods delivered, work done, rentals, or fees accrued prior to the cancellation or termination shall be paid by the City.

(f) The Commissioner or agency head shall consider and address in reaching his or her determination and in assessing an appropriate penalty the factors in paragraphs (i) and (ii) below. He or she may also consider, if relevant and appropriate, the criteria established in paragraphs (iii) and (iv) below in addition to any other information that may be relevant and appropriate.

(i) The party's good faith endeavors or lack thereof to cooperate fully and faithfully with any governmental investigation or audit, including but not limited to the discipline, discharge, or disassociation of any person failing to testify, the production of accurate and complete books and records, and the forthcoming testimony of all other members, agents, assignees or fiduciaries whose testimony is sought.

(ii) The relationship of the person who refused to testify to any entity that is a party to the hearing, including, but not limited to, whether the person whose testimony is sought has an ownership interest in the entity and/or the degree of authority and responsibility the person has within the entity.

(iii) The nexus of the testimony sought to the subject and its contracts, leases, Permits or licenses with the City.

(iv) The effect a penalty may have on an unaffiliated and unrelated party or entity that has a significant interest in an entity subject to penalties under (d) above, provided that the party or entity has given actual notice to the Commissioner or agency head upon the acquisition of the interest, or at the hearing called for in (c)(i) above gives notice and proves that such interest was previously acquired. Under either circumstance the party or entity must present evidence at the hearing demonstrating the potentially adverse impact a penalty will have on such person or entity.

(g) (i) The term "license" or "Permit" as used in this Article shall be defined as a license, Permit, franchise or concession not granted as a matter of right.

(ii) The "person" as used in this Article shall be defined as any natural person doing business alone or associated with another person or entity as a partner, director, officer, principal or employee.

(iii) The term "entity" as used herein shall be defined as any firm, partnership, corporation, association, or person that receives monies, benefits, licenses, leases, or Permits from or through the City or otherwise transacts

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business with the City.

(iv) The term "member" as used in this Article shall be defined as any person associated with another person or entity as a partner, director, officer, principal or employee.

(h) In addition to and notwithstanding any other provision of this Permit the Commissioner or agency head may in his or her sole discretion terminate this agreement upon not less than three (3) days written notice in the event Permittee fails to promptly report in writing to the Commissioner of Investigation of the City of New York any solicitation of money goods requests for future employment or other benefit or thing of value, by or on behalf of any employee of the City of other person, firm, corporation or entity for any purpose which may be related to the procurement or obtaining of this agreement by the Permittee, or affecting the performance of this Permit.

39. CHOICE OF LAW, CONSENT TO JURISDICTION AND VENUE. This Permit shall be deemed to be a contract ("Contract") executed in the City of New York, State of New York, regardless of Permittee's domicile, and shall be governed by and construed in accordance with the laws of the State of New York.

Permittee agrees that any and all claims asserted by or against the City arising under this Permit or related thereto shall be heard and determined either in the courts of the United States located in New York ("Federal Courts") or in the courts of the States of New York ("New York State Courts") located in the City and County of New York. To effect this agreement and intent, Permittee agrees to the following:

(a) If the City initiates any action against the Permittee in Federal Court or in New York State Court, service of process may be made on the Permittee either in person, wherever such Permittee may be found, or by registered mail addressed to the Permittee at its address as set forth in this Permit, or to such other address as the Permittee may provide to the City in writing; and

(b) With respect to any action between the City and the Permittee in New York State Court, the Permittee hereby expressly waives and relinquishes any rights it might otherwise have (i) to move to dismiss on grounds of forum non conveniens, (ii) to remove to Federal Court; and (iii) to move for a change of venue to a New York State Court outside New York County.

(c) With respect to any action between the City and the Permittee in Federal Court located in New York City, the Permittee expressly waives and relinquishes any right it

might otherwise have to move or transfer the action to a United States Court outside the City and County of New York.

(d) If the Permittee commences any action against the City in a court located other than in the City, County and State of New York, upon request of the City, the Permittee shall either consent to a transfer of the action to a court of competent jurisdiction located in the City, County and State of New York or, if the court where the action is initially brought will not or cannot transfer the action, the Permittee shall consent to dismiss such action without prejudice and may thereafter reinstitute the action in a court of competent jurisdiction in New York City and County of New York.

If any provision of this Section is held unenforceable for any reason, each and every other provision shall nevertheless remain in full force and effect.

40. WAIVER OF TRIAL BY JURY. Permittee hereby waives trial by jury in any action, proceeding, or counterclaim related to this Permit.

41. PROCUREMENT OF AGREEMENT. Permittee represents and warrants that no person or selling agency has been employed or retained to solicit or secure this Permit upon an agreement or understanding for a commission, percentage, brokerage fee, contingent fee or any other compensation. Permittee further represents and warrants that no payment, gift or thing of value has been made, given or promised to obtain this or any other agreement between the parties. Permittee makes such representations and warranties to induce the City to enter into this Permit and the City relies upon such representations and warranties in the execution hereof.

For a breach or violation of such representations or warranties, the Commissioner shall have the right to annul this Permit without liability, and the Permittee shall not make any claim for, or be entitled to recover, any sum or sums due under this Permit. This remedy, if effected, shall not constitute the sole remedy afforded the City for the falsity or breach, nor shall it constitute a waiver of the City's right to claim damages or refuse payment or to take any other action provided for by law or pursuant to this Permit.

42. NO CLAIMS AGAINST OFFICIALS, AGENTS OR EMPLOYEES. No claim whatsoever shall be made by the Permittee against any officials, agent, or employee of the City or the Central Park Conservancy for, or on account of, anything done or omitted in connection with this Permit.

43. CUMULATIVE REMEDIES - NO WAIVER.

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The specific remedies to which the City may resort under the terms of this Permit are cumulative and are not intended to be exclusive of any other remedies or means of redress to which it may be lawfully entitled in case of any other default hereunder. The failure of the City to insist in any one or more cases upon the strict performance of any of the covenants of this Permit, or to exercise any option herein contained, shall not be construed as a waiver or relinquishment for the future of such covenants or option. No acceptance by Commissioner, City or Parks of any fees, liquidated damages, charges or other payments from Permittee after a default of any of the terms and conditions hereof by Permittee shall be deemed as a waiver of any right to terminate this Permit.

44. SEVERABILITY; INVALIDITY OF PARTICULAR PROVISIONS. If any term or provision of this Permit or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Permit, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Permit shall be valid and enforceable to the fullest extent permitted by law.

45. CONFLICT OF INTEREST. Permittee represents and warrants that neither it nor any of its directors, officers, members, partners or employees, has any interest nor shall they acquire any interest, directly or indirectly, which would or may conflict in any manner or degree with the performance or rendering of the services herein provided. Permittee further represents and warrants that in the performance of this Permit no person having such interest or possible interest shall be employed by it. No elected official or other officer or employee of the City or Department nor any person whose salary is payable, in whole or part, from the City treasury, shall participate in any decision relating to this Permit which affects his/her personal interest or the interest of any corporation, partnership or association in which he/she is, directly or indirectly, interested nor shall any such person have any interest, direct or indirect, in this Permit or in the proceeds thereof.

46. JUDICIAL INTERPRETATION. Should any provision of this Permit require judicial interpretation, it is agreed that the court interpreting or considering same shall not apply the presumption that the terms hereof shall be more strictly construed against a party by reason of the rule of construction that a document should be construed more strictly against the party who itself or through its agent prepared the same, it being agreed that all parties hereto have participated in the preparation of this Permit and that legal counsel was consulted by each responsible

party before the execution of this Permit.

47. INDEPENDENT STATUS OF PERMITTEE. Permittee is not an employee of Parks or the City or the Central Park Conservancy and in accordance with such independent status neither Permittee nor its employees or agents will hold themselves out as, nor claim to be officers or employees of the City, or of any department, agency, or unit thereof, they will not make any claim, demand, or application to or for, any right or privilege applicable to an officer of, or employee of, the City, including but not limited to, workers' compensation coverage, unemployment insurance benefits, social security coverage or employee retirement membership or credit.

48. ALL LEGAL PROVISIONS DEEMED INCLUDED. Each and every provision of law required to be inserted in this Permit shall be and is inserted herein. Every such provision is to be deemed to be inserted herein, and if, through mistake or otherwise, any such provision is not inserted, or is not inserted in correct form, then this Permit shall, forthwith upon the application of either party, be amended by such insertion so as to comply strictly with the law and without prejudice to the rights of either party hereunder.

49. PRIOR UNDERSTANDING; NO ORAL MODIFICATION. This Permit states the entire and integrated agreement between the City and Permittee and supersedes all prior negotiations, representations and agreements, whether written or oral. This Permit may not be altered, modified or amended in any manner whatsoever except by a written instrument signed by the City and Permittee.

50. MARKETING AND SPONSORSHIP AGREEMENTS. Permittee must obtain the prior written approval of Parks prior to entering into any marketing or sponsorship agreement. In the event Permittee breaches this requirement, Permittee shall take any action that the City may deem necessary to protect the City's interest.

51. PAYMENT AND NOTICE. Any Permit fees, charges or sums payable by Permittee to Parks shall be made to the New York City Department of Parks & Recreation, Revenue Division, The Arsenal - Room 407, 830 Fifth Avenue, New York, NY 10065.

Where provision is made herein for notice to be given in writing, the same shall be given by hand delivery, facsimile, or by mailing a copy of such notice by mail addressed to Commissioner of Parks at New York City Department of Parks & Recreation, The Arsenal, 830 Fifth Avenue, New York, NY 10065 and to the attention

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of Permittee at its address set forth on the Cover Page, or to any other address that Permittee shall have filed with Commissioner.

52. REIMBURSEMENT OF CITY. Permittee shall, within thirty (30) days of receipt of a written request, reimburse City and Parks for all costs incurred by City or Parks in assisting Permittee or its vendors to comply with this Permit, or in setting up or taking down the vending booths at the premises. or in rectifying any non-compliance by Permittee with the terms and conditions hereof.

53. VEHICLES. As of June 27, 2018, Central Park Drive is a car-free zone. Concessionaires may only access Park roadways to pick-up or deliver items essential to the operation of their concessions with Parks approval. Personal vehicles are not allowed on any Park Drive without prior Parks approval. Available entrances and exits to Central Park may be impacted. More information will be made available prior to the Notice to Proceed. All concessionaires must observe applicable vehicle and traffic regulations, and adhere to instructions from Central Park Conservancy NYPD, NYCDOT, and Parks. Concessionaires are not permitted to operate vehicles on pedestrian pathways without prior Parks approval. The maximum speed limit on Central Park drives is 15 miles per hour (MPH), but may be subject to change. Motorists should reduce speed and exercise extreme caution when park drives are congested, and vehicles must travel only in the marked vehicle lane. Drivers must always yield to pedestrians and cyclists and turn on hazard lights when operating in the park. All drivers of vehicles employed in the operation of the concessions are required to obtain and display a Parks-issued vehicle permit. During the term of the Permit, traffic regulations may be subject to change.

54. SUSTAINABILITY

Integrated Sustainability by Design

(a) Licensee should include an organizational plan for sustainability that looks to decrease adverse effects on the climate and improve the overall quality of life of its users.

Licensee should implement the following:

- enhance site potential through sustainably integrated design (see 54 b. below)
- limit non-renewable energy utilization
- utilize ecologically ideal items (see 54 c. below)
- conserve water
- upgrade indoor natural quality through biophilic designs, which can include

incorporating natural materials, natural lighting, vegetation, and other elements of the natural world into the built environment.

- (b) Optimize all maintenance and operations to follow concepts of sustainability Licensee should identify each portion of the site that can be improved through sustainably integrated design and provide design plans, with labels and explanations, accordingly.
 - Use energy-efficient lighting & appliances
 - Install motion-activated fixtures and lights
 - Use low-pressure faucets and water closets, etc.
 - Increase permeable surfaces
 - Incorporate Storm Water Management, including adding rain garden, if feasible.
 - Reduce paved surface areas by adding new landscaping in and around parking lots
 - Install or convert building systems including Heating Ventilation and Air Conditioning to high efficiency, electric or sustainable systems
 - Use locally sourcing materials
 - Using sustainable/recycled materials
 - Include a Comprehensive Waste Management Plan, including recycling program and composting, if feasible.
 - Plant new deciduous trees, green roofs and landscaping to provide shade and reduce heat islands
 - Install bike racks
 - Provide electric charging stations for vehicles and maintenance equipment
 - Utilize electric vehicles and maintenance equipment.
- (c) Licensee should include a plan for integrating sustainability into everyday operations such as:
 - Sustainability measurements, analytics, and performance reviews
 - A sustainable leadership system to ensure an operation that is sustainable at its core (via employee training or workshops)
 - A detailed plan for phasing out plastic usage and single-use items
 - “Clean” or “green” cleaning products to ensure cleaner (water) run-off for the surrounding community
 - Sustainable soaps, toilet paper, hand dryers (rather than paper towels), low-pressure faucets, etc. for patrons
 - A plan to organize composting or partner with a composting entity to ensure minimal trash to landfills.

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55. **EXPANDING VENDING SPACE.** Permittee is authorized to have only the vending booths and inventory at the premises as set forth in this Permit. Permittee shall not keep additional boxes, racks, stands, carts or displays on or adjacent to the Premises.

56. **LIENS.** Permittee shall provide Parks with discharges of any and all liens that may be levied against the Premises or any property located thereon. Permittee shall use its best efforts to discharge such liens within thirty (30) business days of receipt of lien by Permittee.

57. **NO POLYSTYRENE OR GLASS.** The use of polystyrene packaging or food containers is prohibited in the operation of the concession under this Permit. The sale of beverages in glass bottles is also prohibited. All beverages must be in non-glass, shatterproof containers.

58. **DESIGN.** Parks will use its reasonable efforts to approve or disapprove Permittee’s design plans within thirty (30) days of receipt thereof.

The design, placement, numbers and colors of all vending apparatus, equipment and facilities, including but not limited to vending booths, signs, chairs and tables are subject to Parks’ prior written consent. Any materials associated with the vending booths shall be of a design and color that Parks has approved. All vending booths and associated materials shall be replaced or repaired if Parks deem necessary. Parks must approve all umbrellas and awnings.

59. **UNLICENSED VENDORS.** This Permit does not grant Permittee or its vendors’ exclusive rights to sell in the Park in which the Premises are located. Moreover, Parks may grant other permits to vendors to sell the same or similar items authorized under this Permit within the same park in which the Premises are located. Permittee acknowledges and understands that Parks does not guarantee that illegal vendors, persons unauthorized by Parks or disabled veterans will not complete with Permittee or its vendors or operate near the Premises.

60. **MARKETING PARTNERSHIPS.** Permittee must obtain Parks prior written approval prior to entering into any marketing or sponsorship agreement. In the event that Permittee breaches this provision, City ??

shall take any action that the City may deem necessary to protect the City’s interest.

61. **TRADEMARK**

(a) Permittee should be aware that the City is the trademark owner of various marks and has licensed the use of those trademarks for use on certain designated merchandise. If the Permittee wants to sell merchandise that uses the City’s trademarks, Permittee shall purchase such merchandise from authorized licensees of the City of New York.

62. **NAMING OF THE CONCESSION.**

Any name that Permittee proposes to use for the Permitted Premises or in connection with its operations at the Permitted Premises shall be subject to Parks’ prior written approval. The City shall be the owner of any portion of any name for the Permitted Premises that indicates or refers to Parks’ property or a preexisting facility name. The City will not own any portion of any new name that consists of the name, portrait or signature of a living or deceased individual or identifier that is not otherwise associated with Parks’ property.

63. **OTHER OBLIGATIONS OF PERMITTEE**

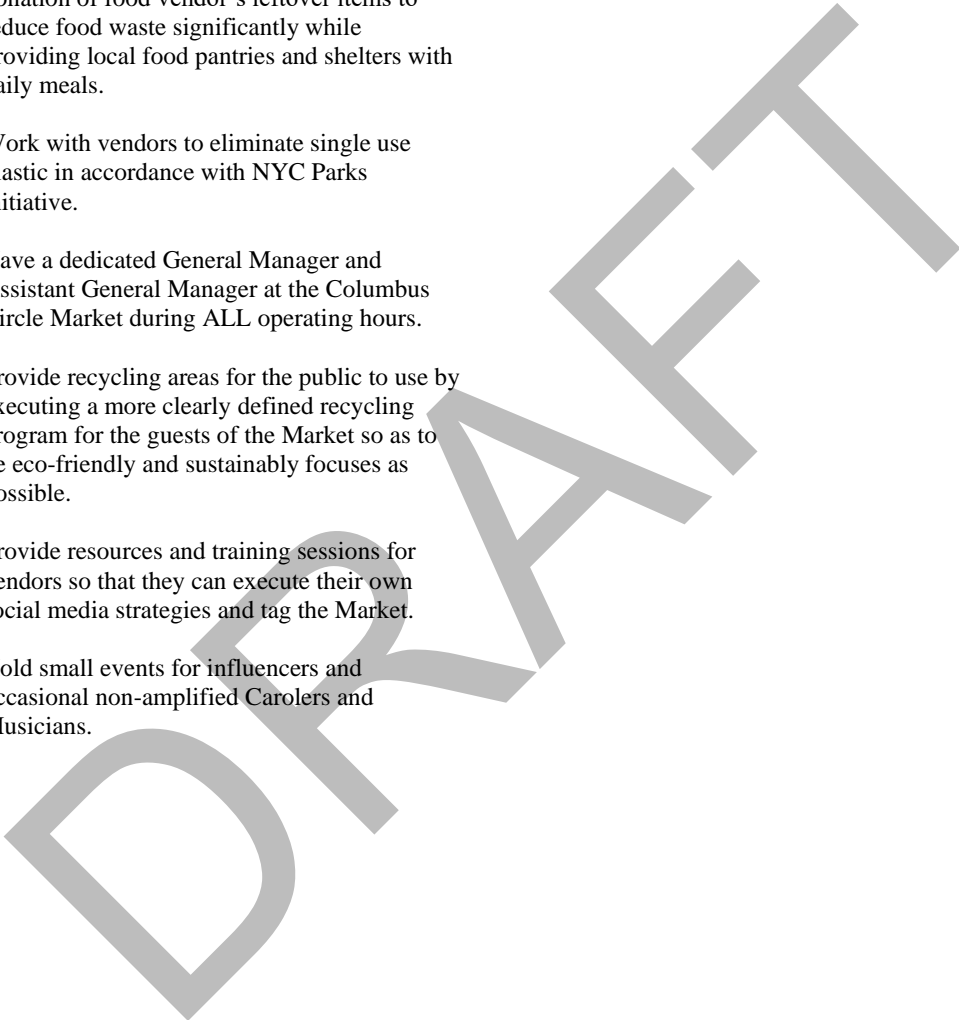
- Permittee promises to:
- Make a renewed push to reach new small businesses from ALL Five Boroughs through the “Guest List” and “Open Doors”.
“Guest list” – E-Commerce Databases to identify entrepreneurs by sales and geography.
“Open Doors” – program focuses on creating opportunities for black and other minority owned businesses, e.g MWBEs, BIPOC.
 - Invest in the experience of the market with new decorations, seating areas and food.
 - Continuing to innovate and improve the outdoor markets by seeking and responding to feedback from customers, vendors and partners.
 - Invest in a new generator battery package which allows the generator to turn off more frequently, using less fuel and emitting less exhaust.
 - Plan a waste reduction program for vendor

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packing .

- Implement new training programs and Standard of Operations for on-site staff.
- Implement new green initiatives using the latest technology in hybrid-generator battery systems, new trash management systems, etc.
- Partnering with City Harvest to facilitate donation of food vendor’s leftover items to reduce food waste significantly while providing local food pantries and shelters with daily meals.
- Work with vendors to eliminate single use plastic in accordance with NYC Parks initiative.
- Have a dedicated General Manager and Assistant General Manager at the Columbus Circle Market during ALL operating hours.
- Provide recycling areas for the public to use by executing a more clearly defined recycling program for the guests of the Market so as to be eco-friendly and sustainably focuses as possible.
- Provide resources and training sessions for vendors so that they can execute their own social media strategies and tag the Market.
- Hold small events for influencers and occasional non-amplified Carolers and Musicians.



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